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12 Attorney for Petitioner **Demar Barnes**

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14 UNITED STATES DISTRICT COURT  
15 DISTRICT OF NEVADA

16 DEMAR RAHYMES BARNES,

17 Petitioner,

v.

D.W. NEVEN, et al.,

Respondents.

Case No. 2:14-cv-01946-RFB-PAL

MOTION FOR EXTENSION OF TIME  
TO FILE AN OPPOSITION TO  
RESPONDENTS MOTION TO  
DISMISS

(SECOND REQUEST)

18 The Petitioner, Demar Rahymes Barnes, by and through his attorney of record,  
19 Jason F. Carr, Assistant Federal Public Defender, moves this Court for an  
20 enlargement of time of eight (8) days from December 6, 2016, to December 14, 2016  
21 to, in which to file an Opposition to Respondents Motion to Dismiss. This motion is  
22 based upon the attached points and authorities and all pleadings and papers on file  
23 herein.

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1 DATED this 6th day of December 2016.

2 Respectfully submitted,  
3 RENE L. VALLADARES  
4 Federal Public Defender

5 */s/ Jason F. Carr*  
6 JASON F. CARR  
7 Assistant Federal Public Defender

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## **POINTS AND AUTHORITIES**

1. On March 31, 2016, the Law Office of the Federal Public Defender “FPD” was appointed to represent Petitioner in the above-entitled action. (*See* ECF No. 11.) After the Federal Public Defender Office conducted a conflict check and it was determined that there were no conflicts, Assistant Federal Public Defender Jason F. Carr filed his Notice of Representation on April 15, 2016. (*See* ECF No. 12.) On September 29, 2016, Barnes filed his Amended Petition and supporting exhibits. (*See* ECF Nos. 21, 22.) Respondents filed their Motion to Dismiss on October 25, 2016. (*See* ECF No. 25.) Counsel for Petitioner requested an extension of time of twenty-five day to file the Opposition to Motion to Dismiss. (*See* ECF No. 26.) This is the second request for an extension of time.

2. The additional period of time is necessary in order to effectively and thoroughly represent Mr. Barnes. This motion is not filed for the purposes of delay but in the interests of justice, as well as in the interests of Mr. Barnes.

3. An extension of time to file the Reply is necessary given my obligations in other cases, including: a Second Amended Petition for Writ of Habeas Corpus filed on October 28, 2016 in *Gallegos v. Baca*, Nevada District Court No. 3:15-cv-00254-RCJ-VPC; an Opposition to Dismiss filed on November 2, 2016 in *Hawes v. Palmer*, Nevada District Court No. 3:10-cv-00655-RCJ-VPC; an Oral Argument on November 17, 2016 in *USA v. Toliver*, Ninth Circuit Court of Appeals No. 15-15439; an Opposition to Motion to Strike filed November 22, 2016 in *Peters v. Neven*, Nevada District Court No. 2:14-cv-1055-RFB-VCF; an Opposition to Motion to Dismiss in *Barnes v. Neven*, Nevada District Court No. 2:14-cv-01946-RFB-PAL, due December 6, 2016; an Opening Brief in *Shropshire v. Baca*, Ninth Circuit Court of Appeals No. 16-15214, due December 8, 2016; and a Reply in *Ramirez v. Baker*, Nevada District Court No. 3:13-cv-00025-MMD-VPC, due December 12, 2016.

4. Counsel also had to travel to Carson City, and Lovelock, Nevada, on December 1-3, 2016, to conduct needed visits with clients whom also have large pending deadlines.

5. On December 6, 2016, I attempted to contact Deputy Attorney General Victor H. Schulze about this request. Mr. Schulze did not have time to get back to me, but generally counsel for the Respondents does not oppose unduly repetitive or long requests for an extension of time. The State of Nevada does, however, request that counsel for habeas petitioners make clear that nothing about the decision not to oppose Petitioner's extension request signifies an implied finding of a basis for tolling any applicable period of limitations or the waiver of any other procedural defense. Petitioner at all times remains responsible for calculating any limitations periods and understands that, in granting an extension request, the Court makes no finding or representation that the petition, any amendments thereto, and/or any claims contained therein are not subject to dismissal as untimely.

6. This motion is not filed for the purpose of delay, but in the interests of justice, as well as in the interest of Mr. Barnes. I respectfully request that this Court grant the request for an extension of time to file the Opposition to Motion to Dismiss to December 14, 2016, to ensure the effective and thorough representation of Mr. Barnes.

DATED this 6th Day of December 2016.

Respectfully submitted,  
RENE L. VALLADARES  
Federal Public Defender

/s/ Jason F. Carr  
JASON F. CARR  
Assistant Federal Public Defender

1 IT IS SO ORDERED:  
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3 IT IS SO ORDERED:



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5 RICHARD F. BOULWARE, II  
6 United States District Judge

7 DATED this 29th day of December, 2016.  
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## **CERTIFICATE OF SERVICE**

In accordance with the Rules of Civil Procedure, the undersigned hereby certifies that on this 6th day of December 2016, I electronically filed a true and correct copy of the foregoing with the United States District Court. Electronic service of the foregoing document shall be made in accordance with the master service list as follows:

Victor-Hugo Schulze, II  
Senior Deputy Attorney General  
Office of the Attorney General  
Special Prosecutions Division  
555 E. Washington Ave., Ste. 3900  
Las Vegas, Nevada 89101-1068  
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*/s/Jason F. Carr*

## Assistant Federal Public Defender